

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Julius Caldwell,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO.
	:	1:10-cv-01719-JOF
Icee of Atlanta, Inc. and Kent Watkins,	:	
	:	
Defendants.	:	
	:	

OPINION & ORDER

This matter is before the court on Defendants’ motion to dismiss, or in the alternative, for a more definite statement under Rule 12(e) [6].

On June 4, 2010, Plaintiff, Julius Caldwell, filed suit against Defendants ICEE of Atlanta, Inc. and Kent Watkins alleging violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.* In lieu of an answer, Defendants filed the instant motion to dismiss in which they allege that Plaintiff’s complaint does not meet the pleading standards of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009) because it does not (1) list any job duties Plaintiff believes were non-exempt, (2) state the compensation allegedly owed, (3) recite any facts to demonstrate individual liability under the FLSA, and (4) provide temporal scope to Plaintiff’s claims.

In response, Plaintiff argues that his original complaint is sufficient, but files an Amended Complaint which he contends renders moot Defendants' motion to dismiss. Defendants answered Plaintiff's Amended Complaint.

The court makes no comment as to whether Plaintiff's original complaint was sufficiently pled under *Twombly* and *Iqbal*. Rather, the court finds that the deficiencies alleged in Defendants' motion to dismiss appear to have been addressed in Plaintiff's Amended Complaint. The court notes in particular that Defendants did not renew their motion to dismiss with respect to Plaintiff's Amended Complaint and instead answered the Amended Complaint.

Therefore, the court DENIES AS MOOT Defendants' motion to dismiss, or in the alternative, for a more definite statement under Rule 12(e) [6].

IT IS SO ORDERED this 29th day of October 2010.

/s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE